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Attorneys for Plaintiffs Sierra Club,  
American Lung Association,  
Environmental Defense Fund,  
and Natural Resources Defense Council

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

SIERRA CLUB, AMERICAN LUNG ) Case No: 4:13-cv-02809-YGR  
ASSOCIATION, ENVIRONMENTAL DEFENSE )  
FUND, and NATURAL RESOURCES DEFENSE )  
COUNCIL ) REQUEST FOR JUDICIAL NOTICE  
Plaintiffs, ) IN SUPPORT OF PLAINTIFFS'  
v. ) MOTION FOR SUMMARY  
UNITED STATES ENVIRONMENTAL ) JUDGMENT  
PROTECTION AGENCY; GINA MCCARTHY, in ) Date: April 8, 2014  
her official capacity as Administrator of the United ) Time: 2:00 p.m.  
States Environmental Protection Agency, ) Place: Courtroom 5, 2<sup>nd</sup> Fl.  
Defendants. ) Judge: Hon. Yvonne Gonzalez Rogers

## **PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE**

Pursuant to Federal Rule of Evidence 201, Plaintiffs the Sierra Club, American Lung Association, Environmental Defense Fund and the Natural Resources Defense Council (“Plaintiffs”) respectfully request that the Court take judicial notice of the documents attached hereto.

Federal Rule of Evidence 201 provides that a trial court must take judicial notice of facts “if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(c)(2). A fact is appropriate for judicial notice if it is “not subject to reasonable dispute because it … can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). Facts contained in public records are considered appropriate subjects of

1 judicial notice. *See AtPac, Inc. v. Aptitude Solutions, Inc.*, 787 F. Supp. 2d 1108, 1112 n.3 (E.D.  
 2 Cal. 2011)(taking judicial notice of document from U.S. Copyright Office as a matter of public  
 3 record); *Nebraska v. EPA*, 331 F.3d 995, 998 n.3 (D.C. Cir. 2003) (taking “judicial notice of the  
 4 information on the EPA’s database”). Federal courts also routinely take judicial notice of  
 5 information on the internet, including government documents available on the internet. *See Seifert v.*  
 6 *Winter*, 555 F. Supp. 2d 3, 10 n.5 (D.D.C. 2008) (judicial notice may be taken of government  
 7 documents available from reliable sources on the Internet); *Hendrickson v. Ebay, Inc.*, 165 F. Supp.  
 8 2d 1082, 1084 n.2 (C.D. Cal. 2001) (taking “judicial notice of www.eBay.com and the information  
 9 contained therein pursuant to Federal Rule of Evidence 201”).

10 Plaintiffs seek judicial notice of the following documents:

11 1. Attached as **Exhibit 1** to this Request for Judicial Notice is a true and correct copy of  
 12 the United States Environmental Protection Agency, EPA-452/P-12-002, Policy Assessment for the  
 13 Review of the Ozone National Ambient Air Quality Standards, First External Review Draft (Aug.  
 14 2012)(Chapters 1-4). This document is available in full from the EPA website at:  
 15 [http://www.epa.gov/ttn/naaqs/standards/ozone/s\\_o3\\_2008\\_pa.html](http://www.epa.gov/ttn/naaqs/standards/ozone/s_o3_2008_pa.html).

16 2. Attached as **Exhibit 2** to this Request for Judicial Notice is a true and correct copy of  
 17 the letter from Dr. Rogene Henderson, Chair Clean Air Scientific Advisory Committee, to Stephen  
 18 Johnson, Administrator U.S. Environmental Protection Agency (Apr. 7, 2008). This document is  
 19 available from the EPA website at:

20 [http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/4AF8764324331288852574250069E494/\\$File/EPA-CASAC-08-009-unsigned.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/4AF8764324331288852574250069E494/$File/EPA-CASAC-08-009-unsigned.pdf).

22 3. Attached as **Exhibit 3** to this Request for Judicial Notice is a true and correct copy of  
 23 the letter from Dr. Jonathan M. Samet, Chair, Clean Air Scientific Advisory Committee, to Lisa P.  
 24 Jackson, Administrator, U.S. Environmental Protection Agency (Feb. 19, 2010). This document is  
 25 available from the EPA website at:

26 [http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/610BB57CFAC8A41C852576CF007076BD/\\$File/EPA-CASAC-10-007-unsigned.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/610BB57CFAC8A41C852576CF007076BD/$File/EPA-CASAC-10-007-unsigned.pdf).

1       4. Attached as **Exhibit 4** to this Request for Judicial Notice is a true and correct copy of  
2 the Statement by the President on the Ozone National Ambient Air Quality Standards (Sept. 2,  
3 2011). This document is available from the White House webpage at:

4 <http://www.whitehouse.gov/the-press-office/2011/09/02/statement-president-ozone-national->  
5 ambient-air-quality-standards.

6       5. Attached as **Exhibit 5** to this Request for Judicial Notice is a true and correct copy of  
7 the United States Environmental Protection Agency, EPA 452/R-11-006, Integrated Review Plan for  
8 the National Ambient Air Quality Standards (Apr. 2011). This document is available from the EPA  
9 website at:

10 [http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/97662D128E20C](http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/97662D128E20CA968525746B006CE9FD/$File/External+Review+Draft+O3+CASAC+IRP+9-30-09.pdf)  
11 A968525746B006CE9FD/\$File/External+Review+Draft+O3+CASAC+IRP+9-30-09.pdf.

12       6. Attached as **Exhibit 6** to this Request for Judicial Notice is a true and correct copy of  
13 the excerpts from the letter from Dr. Jonathan Samet, Chair, Clean Air Scientific Advisory  
14 Committee, to Lisa Jackson, Administrator, U.S. Environmental Protection Agency (Mar. 30, 2011).  
15 The full document is available from the EPA website at:

16 [http://yosemite.epa.gov/sab/sabproduct.nsf/F08BEB48C1139E2A8525785E006909AC/\\$File/EPA-](http://yosemite.epa.gov/sab/sabproduct.nsf/F08BEB48C1139E2A8525785E006909AC/$File/EPA-CASAC-11-004-unsigned+.pdf)  
17 CASAC-11-004-unsigned+.pdf.

18       7. Attached as **Exhibit 7** to this Request for Judicial Notice is a true and correct copy of  
19 the United States Environmental Protection Agency, January 2010 Proposal to Revise the National  
20 Ambient Air Quality Standards for Ground Level Ozone: General Overview at 17 (Jan. 2010). This  
21 document is available from the EPA website at: [http://www.epa.gov/glo/pdfs/20100106present.pdf.](http://www.epa.gov/glo/pdfs/20100106present.pdf)

22       8. Attached as **Exhibit 8** to this Request for Judicial Notice is a true and correct copy of  
23 the Environmental Protection Agency, Review of the Ozone NAAQS: Schedule and Process, Clean  
24 Air Scientific Advisory Committee Meeting, CASAC Ozone Panel (Sept. 11-13, 2012). This  
25 document is available from the EPA website at:

26 [http://yosemite.epa.gov/sab/sabproduct.nsf/D598E6BF2D7551D885257A75007664FC/\\$File/Wegm](http://yosemite.epa.gov/sab/sabproduct.nsf/D598E6BF2D7551D885257A75007664FC/$File/Wegman+-+NAAQS+process+and+schedule+for+CASAC+meeting+9-10-12.pdf)  
27 an+-+NAAQS+process+and+schedule+for+CASAC+meeting+9-10-12.pdf.

9. Attached as **Exhibit 9** to this Request for Judicial Notice is a true and correct copy of the United States Environmental Protection Agency, Clean Air Scientific Advisory Committee (CASAC) Ozone Review Panel, Public Meeting (May 19-20, 2011). This document is available from the EPA website at:

[http://yosemite.epa.gov/sab/sabproduct.nsf/F658D119DFD3AF7685257894007040E9/\\$File/James+Brown.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/F658D119DFD3AF7685257894007040E9/$File/James+Brown.pdf).

10. Attached as **Exhibit 10** to this Request for Judicial Notice is a true and correct copy of the United States Environmental Protection Agency, Review of the Ozone NAAQS: Schedule and Preview of the REA and PA, Presentation to the CASAC Ozone Panel (Jan. 9, 2012). This document is available from the EPA website at:

[http://yosemite.epa.gov/sab/sabproduct.nsf/F23ABF4FDBA4795385257980004CDFE6/\\$File/REA+and+PA+slides+for+CASAC+meeting+1-2012+v10.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/F23ABF4FDBA4795385257980004CDFE6/$File/REA+and+PA+slides+for+CASAC+meeting+1-2012+v10.pdf).

11. Attached as **Exhibit 11** to this Request for Judicial Notice is a true and correct copy of a Memorandum from Lydia Wegman, Director Health and Environmental Impacts Division, Office of Air Quality Planning and Standards, to Holly Stallworth, Designated Federal Officer, Clean Air Scientific Advisory Committee, regarding “Schedule for CASAC Review of the 2<sup>nd</sup> External Review Drafts of EPA’s Health and Welfare Risk and Exposure Assessments and Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards.” This document is available from the InsideEPA.com website at:

[http://insideepa.com/iwpfile.html?file=jun2013/epa2013\\_1105.pdf](http://insideepa.com/iwpfile.html?file=jun2013/epa2013_1105.pdf).

These documents meet the requirements for judicial notice and Plaintiffs respectfully request that judicial notice of these documents be taken.

Respectfully submitted,

DATED: January 21, 2014

/s/ Irene V. Gutierrez  
PAUL R. CORT  
IRENE V. GUTIERREZ

*Counsel for Plaintiffs*